

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIAYOLKED, INC. and JIM
ANGELOPOULOS,

Plaintiffs,

v.

CFG MERCHANT SOLUTIONS, LLC,

Defendant.

Case No. 23-cv-02216 NC

**ORDER TO DEFENDANT TO
SHOW CAUSE RE: SUBJECT
MATTER JURISDICTION;
VACATING JUNE 28 HEARING**

This case was removed from Santa Clara County Superior Court by defendant CFG Merchant Solutions, LLC. ECF 1. The party seeking to invoke federal court jurisdiction (here, the defendant CFG) has the burden of establishing that federal subject matter jurisdiction exists. *Scott v. Breeland*, 792 F.2d 925, 927 (9th Cir. 1986). The federal court is a court of limited jurisdiction and must presume a lack of jurisdiction until the party asserting jurisdiction establishes otherwise. *Id.*

It is elementary that an LLC “is a citizen of every state of which its owners/members are citizens.” *Johnson v. Columbia Props. Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006). It is *not* a citizen of the state in which it was formed or does business. *Id.* (emphasis added). Therefore, whether Plaintiffs and Defendant are diverse in this case depends on the citizenship of Defendant’s owners/members as compared to Plaintiffs’ asserted California citizenship. ECF 1. Defendant has not provided information about

every state of which the owners/members of CFG Merchant Solutions LLC is a citizen.

Consequently, Defendant must show cause in writing by June 26, 2023, as to why this case should not be remanded back to Santa Clara County Superior Court due to a failure to establish federal subject matter jurisdiction. Plaintiffs may file an optional reply on the jurisdictional issue by June 29, 2023.

The Court will not rule on Defendant's pending motion to dismiss (ECF 7) until the subject matter jurisdiction issue is determined. The Court therefore vacates the June 28 hearing on the motion to dismiss. The Court will reset the hearing if needed.

IT IS SO ORDERED.

Dated: June 21, 2023


NATHANAEL M. COUSINS
United States Magistrate Judge